

UNITED STATES DISTRICT COURT

Southern District Of California
Office Of The Clerk
880 Front Street, Room 4290
San Diego, California 92101-8900
Phone: (619) 557-5600
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.
Clerk of Court

5-07-70339-PVT

August 13, 2008

Clerk, U.S. District Court
Northern District of California - San Jose
280 South 1st Street
San Jose, CA 95113

FILED
AUG 19 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIF.
SAN JOSE

Re: 08mj2301-JMA, USA v Serrato-Espinoza

Dear Clerk of the Court:

Enclosed please find copies of the following documents in connection with removal proceedings conducted in this District regarding the above named defendant:

<input checked="" type="checkbox"/> Docket Sheet	<input checked="" type="checkbox"/> Warrant of Removal
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Order of Removal
<input type="checkbox"/> Minute Order Appointing Counsel	<input type="checkbox"/> Detention Order
<input type="checkbox"/> Corporate Surety Bond	<input checked="" type="checkbox"/> Waiver of Removal
<input type="checkbox"/> Personal Surety Bond	
<input type="checkbox"/> Other	

Please acknowledge receipt of the above documents on the enclosed copy of this letter.

Sincerely yours,

W. Samuel Hamrick, Jr.
Clerk of Court

By: s/J. Hinkle
Deputy Clerk

Arrest on Out-of-District Offense

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

08 JUL 28 AM 11:58
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ARREST ON OUT-OF-DISTRICT OFFENSE

DEPUTY

Magistrate Case Number:

08 MJ 2301

The person charged as Jose Angel SERRATO-Espinoza now appears before this United States District Court for an initial appearance as a result of the following charges having been filed in the United States District Court for the Northern District of California with Deported Alien Found in the United States, in violation of Title 8, United States Code 1326

The charging documents and the warrant of the arrest of the defendant which was issued by the above United States District Court are attached hereto.

I hereby swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED: July 28, 2008

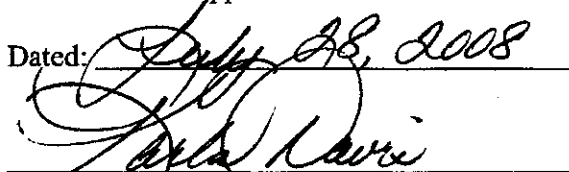


Stephen J. Prendergast
(Name)

Deportation Officer

Reviewed and Approved:

Dated:



Assistant United States Attorney

AO 442 (Rev. 5/93) Warrant for Arrest

United States District Court
Northern District of California

UNITED STATES OF AMERICA,

v.

WARRANT FOR ARREST

SERRATO-ESPINOZA, JOSE ANGEL

Case Number: CR

07 70339

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest Jose Angel Serrato-Espinoza and bring him or her forthwith to the nearest magistrate judge to answer a(n)

() Indictment () Information (X) Complaint
() Order of Court () Violation Notice () Probation Violation Petition

charging him with unlawfully re-entering and being found in the United States after deportation, without permission of the Attorney General or the Secretary of the Homeland Security.

in violation of Title 18 United States Code, Section(s) 1326(a)

Patricia V. Trumbull
Name of Issuing Officer

United States Magistrate Judge
Title of Issuing Officer

Patricia V. Trumbull
Signature of Issuing Officer

6/13/07
Date and Location

RECEIVED
7 JUN 13 P 2:19
NORTHERN DISTRICT OF CALIFORNIA
San Jose, CA

Bail fixed at \$ No Bail

by Patricia V. Trumbull
Name of Judicial Officer

RETURN		
This warrant was received and executed with the arrest of the above-named defendant at		ORIGINAL WARRANT HELD BY
Date received 7/28/07	Name and Title of Arresting Officer	U.S. MARSHALS, SAN JOSE
Date of Arrest 7/28/07	Stephen J. Pendegast	NOTIFY ABOVE OFFICE UPON ARREST
		DO NOT MAKE RETURN ON THIS COPY

AO 91 (Rev. 5/85) - Criminal Complaint

United States District Court

NORTHERN

FILED
DISTRICT OF

CALIFORNIA

2007 JUN 13 A 11:18

UNITED STATES OF AMERICA

V.

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CAL. S.J.

CRIMINAL COMPLAINT

SERRATO-Espinoza, Jose Angel
(Name and Address of Defendant)07 70339
CASE NUMBER:

PVT

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 2, 2007, in Monterey County in the Northern District of California defendant(s) was, (Track Statutory Language of Offense)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty (20) years imprisonment, \$100.00 special assessment fee, and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:


ASSISTANT UNITED STATES ATTORNEY
Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,


Signature of Complainant

6/13/07
Date

at

San Jose, California
City and State

Patricia V. Trumbull
United States Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

RE: SERRATO-Espinoza, Jose Angel A73 849 006

I am a Deportation Officer of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and have been employed since July 7, 1997. I am currently assigned to the Criminal Alien Program (CAP) Unit of the San Jose Sub-Office. In such capacity, I have reviewed the official file relating to the above named individual, which attests to the following:

- (1) Mr. SERRATO-Espinoza is a 42-year-old male who has used six (6) aliases and one (1) date of birth in the past.
- (2) Mr. SERRATO-Espinoza has been assigned one (1) Alien Registration number of A73 849 006, FBI number of 749248PA5, California Criminal Information Index number of A07329969, and a California Department of Corrections number F08118.
- (3) Mr. SERRATO-Espinoza is a native of Mexico and a citizen of Mexico since birth. A check through official records shows that he was arrested and deported on two (2) occasions from the United States:

<u>DATE</u>	<u>PLACE OF DEPORTATION</u>
May 29, 2001	Calexico, CA
December 3, 2001	Calexico, CA

- (4) Mr. SERRATO-Espinoza last entered the United States at or near San Ysidro, CA on or after December 3, 2001, by crossing the international border without inspection subsequent to deportation.
- (5) Mr. SERRATO-Espinoza on a date unknown, but no later than May 2, 2007, in Monterey County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, United States Code, Section 1326. On May 2, 2007, Mr. SERRATO-Espinoza was interviewed by Immigration Enforcement Agent (IEA) Alejandro Sierra at the CTF-Soledad State Prison, Soledad, CA, and during that interview, Mr. SERRATO-Espinoza was advised of his **Miranda** rights in Spanish. Mr. SERRATO-Espinoza waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Attorney General or the Secretary of Homeland Security to re-enter the United States.
- (6) Mr. SERRATO-Espinoza was, on July 17, 1997, convicted in the Superior Court of California, in and for the County of Riverside, for the offense of POSSESSION OF CONTROLLED SUBSTANCE (case# P95F9250), a felony, in violation of Section 11377(A) of the California Health and Safety Code, and was sentenced to one (1) year and four (4) months in prison.

RE: SERRATO-Espinoza, Jose Angel A73 849 006

- (7) Mr. SERRATO-Espinoza was, on July 17, 1997, convicted in the Superior Court of California, in and for the County of Riverside, for the offense of POSSESSION FOR SALE OF CONTROLLED SUBSTANCE (case# PEF04955), an aggravated felony, in violation of Section 11378 of the California Health and Safety Code, and was sentenced to one (1) year and four (4) months in prison.
- (8) Mr. SERRATO-Espinoza was, on July 17, 1997, convicted in the Superior Court of California, in and for the County of Riverside, for the offense of POSSESSION OF FIREARM BY A FELON (case# PEF03640), an aggravated felony, in violation of Section 12021(a)(1) of the California Penal Code, and was sentenced to one (1) year and four (4) months in prison.
- (9) Mr. SERRATO-Espinoza was, on October 28, 1999, convicted in the Superior Court of California, in and for the County of Riverside (Perris case# PEF003400), for the offense of IMPORT, SALE, AND GIVE AWAY A CONTROLLED SUBSTANCE, a felony, in violation of Section 11379(a) of the California Health and Safety Code, and was sentenced to two (2) years in prison.
- (10) Mr. SERRATO-Espinoza was, on November 7, 2005, convicted in the Superior Court of Californian, in and for the County of Riverside (Southwest case# RIF126872), for the offense of POSSESSION OF CONTROLLED SUBSTANCE, a felony, in violation of Section 11377(a) of the California Health and Safety Code, and was sentenced to one (1) year and four (4) months in prison.
- (11) Mr. SERRATO-Espinoza was, on December 1, 2005, convicted in the Superior Court of California, in and for the County of Riverside (Southwest case# SWF014377), for the offense of POSSESSION OF FIREARM BY A FELON, an aggravated felony, in violation of Section 12021(a)(1) of the California Penal Code, and was sentenced to three (3) years in prison.
- (12) On the basis of the above information, there is probable cause to believe that Mr. SERRATO-Espinoza illegally re-entered the United States, in violation of Title 8, United States Code, Section 1326.



Trong Q. Nguyen
Deportation Officer

Subscribed and sworn to before me this 13 day of June, 2007



PATRICIA V. TRUMBULL
UNITED STATES MAGISTRATE JUDGE

CLOSED

**U.S. District Court
Southern District of California (San Diego)
CRIMINAL DOCKET FOR CASE #: 3:08-mj-02301-JMA-1
Internal Use Only**

Case title: USA v. Serrato-Espinoza

Date Filed: 07/28/2008

Date Terminated: 08/12/2008

Assigned to: Magistrate Judge Jan M.
Adler

Defendant (1)

Jose Angel Serrato-Espinoza
TERMINATED: 08/12/2008

represented by **Keith Howard Rutman**
Law Offices of Keith H Rutman
402 West Broadway
Suite 2010
San Diego, CA 92101-8516
(619) 237-9072
Fax: (760) 454-4372
Email: krutman@krutmanlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

I hereby attest and certify on 8/13/2008
That the foregoing document is a full, true and correct
copy of the original on file in my office and in my legal
custody.

**CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

By [Signature] Deputy

Pending Counts

None

Highest Offense Level (Opening)

None

Terminated Counts

None

Highest Offense Level (Terminated)

None

Complaints

Disposition

Disposition

Disposition

8:1326 - Deported Alien Found in the
United States

Plaintiff

USA

represented by **U S Attorney CR**

U S Attorneys Office Southern District
of California

880 Front Street

Room 6293

San Diego, CA 92101

(619)557-5610







Fax: (619)557-5917

Email: Efile.dkt.gc2@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

*Designation: Assistant United States
Attorney*

Date Filed	#	Docket Text
07/28/2008	 <u>1</u>	OUT OF DISTRICT COMPLAINT as to Jose Angel Serrato-Espinoza (1). (ecl) (jcj). (Entered: 07/29/2008)
07/28/2008	 <u>1</u>	Arrest of Jose Angel Serrato-Espinoza (1) on 7/28/2008. (jjh) (Entered: 07/30/2008)
07/29/2008	 <u>2</u>	Minute Entry for proceedings held before Magistrate Judge Jan M. Adler: Initial Appearance on complaint in Rule 5 Proceedings as to Jose Angel Serrato-Espinoza (1) held on 7/29/2008. Attorney Keith Howard Rutman (n/a) appointed for Jose Angel Serrato-Espinoza (1). No bail set as to Jose Angel Serrato-Espinoza (1). (Removal/ID Hearing set for 8/12/2008 02:00 PM in Courtroom D before Magistrate Judge Jan M. Adler.) (Tape #11:27-11:33).(Plaintiff Attorney Shireen Becker, AUSA).(Defendant Attorney Devin Burstein, FD-S/A). (jjh) (Entered: 07/30/2008)
08/12/2008	 <u>3</u>	Minute Entry for proceedings held before Magistrate Judge Jan M. Adler: Removal/ID Hearing as to Jose Angel Serrato-Espinoza (1) held on 8/12/2008. Dft admits identity. Waiver filed. Order filed. (Tape #JMA08-01: 14:21-14:24).(Plaintiff Attorney Greg Noonan, AUSA).(Defendant Attorney Keith Howard Rutman, CJA). (jjh) (Entered: 08/13/2008)
08/12/2008	 <u>4</u>	WAIVER of Rule 5(c) and 5.1(a) Hearings by Jose Angel Serrato-Espinoza (1). (jjh) (Entered: 08/13/2008)
08/12/2008	 <u>5</u>	WARRANT of Removal to Northern District of California Issued as to Jose Angel Serrato-Espinoza (1). (Attachments: # <u>1</u> Removal Letter)(Removal Letter and documents sent)(jjh) (Entered: 08/13/2008)

Warrant of Removal (After Waiver of Hearing)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

JOSE ANGEL SERRATO-ESPINOZA

2008 AUG 12 Magistrate Case
No. 08MJ2301
U.S. MARSHAL
SOUTHERN DISTRICT OF
CALIFORNIA
WARRANT OF REMOVAL
(After Waiver of Hearing)

To: United States Marshal

A complaint having been filed in the Northern District of California, charging defendant JOSE ANGEL SERRATO-ESPINOZA with unlawful re-entry, in violation of Title 8, United States Code, Section 1326, and the above-named defendant having been arrested in this district and, after waiving hearing pursuant to Federal Rules of Criminal Procedure 5(c) and 5.1(a), having been committed by a United States Magistrate Judge to your custody pending his removal to that district,

You are hereby commanded to commit the above-named defendant forthwith to the Northern District of California and there deliver him to the United States Marshal for that district or to some other officer authorized to receive him.


HON. JAN M. ADLER
United States Magistrate Judge

Dated at San Diego, California, this 12th day of August, 2008.

RETURN

Northern District of California (at San Jose)

ss

Received the within warrant of removal the _____ day of _____, 2008, and executed same.

U. S. Marshal

By _____
Deputy Marshal

Waiver of Rule 5(c) and 5.1(a) Hearings

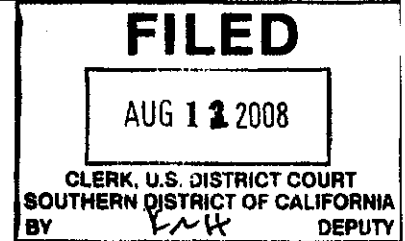
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

JOSE ANGEL SERRATO-ESPINOZA

RECEIVED
2008 AUG 13 A 8:57
Magistrate Case
No. 08MJ2301



WAIVER OF RULE 5(c) and 5.1(a) HEARINGS
(Excluding Probation/Supervised Release Violation)

I, JOSE ANGEL SERRATO-ESPINOZA, understand that in the Northern District of California, charges are pending alleging violation of Title 8, United States Code, Section 1326, and that I have been arrested in the Southern District of California and taken before a United States Magistrate Judge, who informed me of the charge and of my right to:

1. Retain counsel or request the appointment of counsel if I am unable to retain counsel;
2. Request transfer of the proceedings to this district pursuant to Rule 20, Fed.R.Crim.P., in order to plead guilty if the United States Attorneys in both districts approve the transfer in writing;
3. A preliminary hearing if required by Federal Rules of Criminal Procedure 5.1 or 58(b)(2)(G) (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held either in this district or the district of prosecution; and
4. An identity hearing to determine if I am the same person named in the charging document.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- ☒ identity hearing
☐ preliminary hearing
☐ identity hearing and have been informed I have no right to a preliminary hearing
☐ identity hearing but request a preliminary hearing be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge is pending against me.

Jose Serrato
JOSE ANGEL SERRATO-ESPINOZA
Defendant
[Signature]
Defense Counsel
8/12/08
Date